



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/619,255	07/19/2000	Catherine Lin-Hendel		1100

7590 03/22/2005

Jean Marc Zimmerman  
226 St Paul Street  
Westfield, NJ 07090

EXAMINER
----------

FADOK, MARK A

ART UNIT	PAPER NUMBER
----------	--------------

3625

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/619,255

Applicant(s)

LIN-HENDEL, CATHERINE

Examiner

Mark Fadok

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Reply***

The examiner is in receipt of applicant's response to office action mailed 9/14/2004, which was received 12/14/2004. Acknowledgement is made to the amendment to claims 9 and 15-17, leaving claims 1-10 and 12-21 as pending in the instant application. The applicant's remarks and amendments have been carefully considered and were found to be persuasive, therefore the previous claim objection has been obviated and the rejection on the merits was overcome as well, however, after further searching a new grounds of rejection follows:

**Examiner's Note**

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3625

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1,3,4,5,9,10,16, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Danish et al (6,412,012) in view of Official Notice.**

**In regards to claim 1,3,4,5,9,10,16, and 20,** Danish discloses all the features of the instant claims. For example, Danish teaches a process for identifying a single item from a family of items presents a user with a feature screen having a series of groupings. Each grouping represents a feature having a set of alternatives from which to select. Selected alternatives are used as selection criteria in a search operation. Results of the search operation is a revised feature screen indicating alternatives that remain available to the user for further selection and searching. The feature screen and search process, therefore, presents the user with a guided nonhierarchical parametric search to identify matching items based upon user specified criteria and priorities. Also disclosed is an adaptation of the claimed method and system appropriate in an Internet environment (see abstract, and FIG's 1-35).

**Claims 2,6-8,12-15,17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Danish et al (6,327,588) in view of Official Notice and further in view of Weaver (6,404,426).**

**In regards to claims 2,6-8,12-15,17-19**, Danish teaches all the features of the instant claims except as follows:

Danish teaches using artificial intelligence rules to match the merchandise with the accessories and producing a list of results (FIG 21-24), but does not specifically mention that the items presented have links to other databases for other types of merchandise. It was old and well known in the art at the time of the invention to include links to other products in a recommendation list. It would have been obvious to a person having ordinary skill in the art to include in Danish the links of the instant invention, because this provides a convenient means for gathering additional information on products that are listed without having to present all the information on one page, which could be overwhelming to the user.

Danish teaches purchasing merchandise and recommending compatible products, but does not specifically mention using a virtual avatar to display the articles that a user wishes to purchase. Weaver teaches a layout and schematics program for preparing and displaying a floor plan depicting merchandise selected by the user (FIG 7, analogous to mannequin trying on clothes).

wherein the dimensions and other architectural features of the floor plan are provided by the user (see summary and user controls);

Art Unit: 3625

a models database having images of models (summary);

an animation and morphing program for providing image and motion creation and morphing to models selected from the model database by the user (FIG 7),

wherein the selected models wear merchandise selected by the user (col 2, lines 53-58),

the user able to alter the models and the models' features (summary);

a temporary working database in which the user works while using the system (col 4, lines 7-30). It would have been obvious to a person having ordinary skill in the art to include in Danish the virtual modeling capabilities as taught by Weaver, because this type of preview allows the user to become more comfortable with the purchased articles when the transaction is done online (col 1, lines 15-20).

and

The combination of Danish and Weaver teaches manipulating data in a database and also collecting preference data in a database for future retrieval, but does not specifically mention that the data is stored in a temporary working database or a personal folder. It was old and well known in the art at the time of the invention to use temporary databases to manipulate data and to store data that was manipulated in a personal folder. It would have been obvious to a person having ordinary skill in the art to include in the combination of Danish and Weaver the separate databases because this would allow many users to use the database and not overwhelm the storage capacity by storing many groups of data that may never again be accessed. This would also increase the efficiency of the system.

**In regards to claim 6**, Danish/Weaver teaches means for preparing and displaying, based on specifications provided by the user,

a recommended floor plan showing each item of merchandise selected by the user (Weaver, FIG 7, analogous to adjusted mannequin being dressed with selected clothing).

**In regards to claim 12**, Danish teaches wherein the the interactive wizard guide includes: means for selecting a model from a model database and morphing the model using specifications provided by the user (Weaver, FIG 7).

**In regards to claim 13**, Danish/Weaver teaches wherein the interactive wizard guide uses an animation graphics composition morphing program to cause the model to be animated and to engage in a full range of movement displayed on the display device (Weaver, FIG 7).

**In regards to claim 14**, Danish/Weaver wherein the interactive wizard guide includes both inclusion and exclusion mechanisms to assist the user in making preference selections (Weaver, FIG 7).

**In regards to claim 17**, Danish/Weaver wherein if the merchandize is clothing, the displaying means of the interactive wizard guide can display a plurality of ensembles of clothing for viewing by the user, each ensemble able to be altered with ensemble items moved from one ensemble to another, colors and patterns changed, and reassembled interactively, the ensembles able to be displayed using models and animation specified by the user (Weaver, FIG 9B).

**In regards to claim 19**, the combination of Danish and Weaver teach a list of items that can be selected for display on an avatar, but does not specifically mention that an additional desired matching items can be retrieved and displayed for viewing that may not be included in the list. It was old and well known in the art at the time of the invention to be able to retrieve additional items that may not be on a provided list (i.e. adding to a shopping cart). It would have been obvious to a person of ordinary skill in the art to include in Danish and Weaver the capability to get additional items, because the user may not be satisfied with the current selections and might want to try on something they had seen earlier thus increasing the likelihood of a sale through the system.

**Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Danish et al (6,412,012) in view of Official Notice in view of Weaver and further in view of Hashimoto (5,729,699).**



**In regards to claim 21**, the combination of Danish and Weaver does not specifically teach wherein the predetermined intelligence rules pertain to determining whether two colors match. Hashimoto teaches a display system, which evaluates and coordinates accessories and colors (see at least abstract). It would be obvious to a person of ordinary skill in the art to include in Danish and Weaver the coordinating suggestion as taught by Hashimoto, because this would provide an additional feature that users, perhaps color blind or lacking in taste, could use to assure that the clothing being bought matches.

### ***Response to Arguments***

A "traverse" is a denial of an opposing party's allegations of fact. The Examiner respectfully submits that applicants' arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret applicants' arguments and comments as constituting a traverse, applicants' arguments and comments do not appear to constitute an adequate traverse because applicant has not specifically pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a

reasonable doubt regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).

In regards to all other arguments regarding the rejection on the merits. Those arguments are considered moot in view of new grounds of rejection provided.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(703) 605-4252**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(703) 308-1344**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

**(703) 872-9306** [Official communications; including  
After Final communications labeled  
"Box AF"]

**(703) 746-7206** [Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal  
Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.



Mark Fadok

Patent Examiner